

Terms of participation: WasteSorted Infrastructure Grants 2023–24

Last reviewed: August 2023

This document should be read in conjunction with the guidelines, application form and any other documentation produced for the relevant grant program (grant documentation). This document sets out additional terms and conditions that apply to all applicants (including auspice organisations) that may apply for funding under the WasteSorted Infrastructure Grants program (program). Unless otherwise defined in this document, terms defined in the grant documentation have the same meaning when used in this document.

Representations and warranties

The Government of Western Australia (State Government), represented by the Waste Authority and its employees, officers, contractors, subcontractors, agents, representatives and advisors, which include those employed by the Department of Water and Environmental Regulation (department) to support the program, does not make any representations or provide any undertakings to applicants other than to invite them to submit an application form for the program.

The Waste Authority does not warrant the accuracy of the content of the grant documentation or this document and shall not be liable for any error or omission or any inaccurate or misleading information provided by the Waste Authority during the program's application process.

The information in the grant documentation and this document has been compiled by the Waste Authority for the purpose of inviting applications and must not be relied on for any other purpose.

The grant documentation and this document do not contain all the information that applicants may require in reaching decisions in relation to applying. Applicants should form their own views as to what information is relevant to such decisions and make their own independent investigations in relation to any such information.

No representation made by or on behalf of the Waste Authority in relation to the grant documentation, the subject matter of the grant documentation or this document, including in connection with any workshops, information sessions or meetings held, shall be binding on the Waste Authority unless that representation is in writing and is incorporated into the funding agreement entered into by the relevant successful applicant.

Confidentiality and privacy

The Waste Authority will not disclose the confidential information of applicants without prior written consent, except in limited circumstances such as to the extent required by law or as is necessary to conduct the application process.

Applicants agree that the Waste Authority may, if required by law to do so, disclose their application, along with any other information disclosed by the applicant to the Waste Authority during the application process, to the State Government and its management, consultants, advisers; the Minister's office; and members of State Parliament, for:

- assessment, reporting, advice, comment or discussions about alternative or collaborative grant funding opportunities
- project support or otherwise for the purposes of the program or to enable the Waste Authority to track private sector capacity and capability to invest in recycling and emissions reduction projects.

Applicants must specify any content of their applications that they consider constitutes confidential information, so the Waste Authority may treat that information as confidential. However, the Waste Authority reserves the right, in its absolute discretion, to disregard an applicant's claim that information is confidential.

The Waste Authority will follow the information privacy principles set out in section 14 of the *Commonwealth Privacy Act 1988* and follow in so far as is practicable any policy guidelines laid down by the Australian Government or issued by the Privacy Commissioner from time to time relating to the handling of personal information.

The Waste Authority is subject to the *Freedom of Information Act 1992* and, if a Freedom of Information request is made, the Waste Authority will consult with the applicant before any decision is made to release the application or supporting documentation.

Ownership

All documents submitted by applicants in connection with the application process become the property of the Waste Authority on submission.

The grant documentation, this document and any other supporting material provided by or on behalf of the Waste Authority is, and shall remain, the property of the Waste Authority.

Intellectual property

Generally, ownership of the intellectual property in the project will vest in the Waste Authority on its creation, and will be administered by the Waste Authority, unless the parties specifically agree otherwise.

Ownership of intellectual property in any pre-existing material owned by the State Government, the applicant or a third party is unaffected by this arrangement, unless otherwise agreed.

Generally, applicants grant the Waste Authority a licence (including the right to sub-license) to reproduce, adapt or modify the whole or any portion of their application for the purpose of the application process and, whether the applicant is successful or unsuccessful, for non-commercial use.

The Waste Authority's licence to use such information does not extend to the confidential information of applicants.

Communications

Applicants must not make any public statements or communications, or publish any media releases, in relation to this application process without first providing a copy of the statement, communication or media release to the Waste Authority and obtaining the prior written approval of the Waste Authority.

Conflict of interest and collusion

An applicant must declare whether they have any independent business relationship with another applicant or a target community. Where a conflict of interest arises, it must be assessed and be resolved in favour of the public interest and to the Waste Authority's satisfaction. If a conflict of interest cannot be resolved to the Waste Authority's satisfaction, the department may exclude an applicant from applying for funding at its absolute discretion.

Subject to any collaboration that is notified to the Waste Authority, each applicant warrants and agrees that it is in all respects independent and that no collusion has taken place or will take place between the applicant and any other applicant or entity in connection with the application process.

Gifts, benefits and hospitality

All participants in this grant, including the Waste Authority, prospective applicants and their staff, have a duty to conduct themselves in accordance with the highest standards of integrity, impartiality and accountability.

Applicants must not offer any gift, benefit or hospitality to the Waste Authority or any board members, or service providers of the Waste Authority during the grant process.

In addition to any other remedies available to it under law or contract, the Waste Authority may, at its absolute discretion, immediately disqualify an applicant that it believes has offered a gift, benefit or hospitality to the Waste Authority or any board member or service provider of the Waste Authority which may:

- give rise to an actual, potential or perceived conflict of interest
- adversely affect their standing as a public official
- may bring the Waste Authority or the public sector into disrepute in connection with the program.

Termination or alteration of application process

The Waste Authority may terminate the application process or the program, alter the application process or the scope of the program or extend the closing time of the program at its absolute discretion.

The Waste Authority does not bind itself, and each applicant agrees that the Waste Authority is not bound to accept any application for funding under the program.

For the avoidance of doubt, references to the 'application process' in the grant documentation and this document means the process for seeking and assessing applications as described in the grant documentation and this document and includes selecting each successful applicant and concludes upon the execution of a funding agreement by each successful applicant.

No legal relationship

No contract (including any process contract) for the provision of funding is formed between the Waste Authority and any person by reason of the grant documentation, this document, an application for funding or any part of the application process.

A legally binding contractual relationship for provision of funding will only arise when the successful applicant and the Waste Authority enter into a funding agreement.

Funding agreement and implementation of project

The funding agreement will include clauses covering performance, measurement against milestones and objectives, payment arrangements, intellectual property ownership, confidentiality, audit processes, breach of contract, reporting and other relevant matters. The funding agreement must be signed prior to funding being provided.

Funding must be spent on the project as described in the application and as outlined in the funding agreement. Failure to do so may result in repayment on the funding to the Waste Authority.

Where project costs incurred are lower than provided in applications, the Waste Authority may require applicants to repay an appropriate proportion of the funding provided.

Funding may be provided to successful applicants in milestone payments. Before payments will be made, all milestone deliverables must be satisfactorily completed by the successful applicant within agreed timeframes and supported by appropriate evidence.

Projects will not be funded retrospectively nor will funding be granted to projects that have commenced prior to the signing of the funding agreement.

Projects must be completed within the agreed timeframes, following the signing of the funding agreement.

Successful applicants will be required to provide the Waste Authority with satisfactory reports as specified in the funding agreement.

Projects must acknowledge the support of the Waste Authority and the program in all project communications as referenced in the Waste Authority [Acknowledgement Guidelines](#).

Successful applicants must provide project information to the Waste Authority for program evaluation purposes and case studies that may be used by the department in future communications.

Projects must be covered for insurance as specified in the guidelines. Successful applicants must provide evidence of adequate insurance coverage prior to entering into the funding agreement.

Application documents

The applicant must ensure its application form (including attachments) contains the documents, information and details required under the grant documentation, this document and any documents necessary to make the application form (including attachments) complete and enable assessment by the Waste Authority.

Applicants must provide any additional information requested by the Waste Authority for the purposes of assessing and evaluating the application form (including attachments) within the time period specified by the Waste Authority.

If an application for funding does not conform to the form required, does not respond to each component of the application form or is incomplete in any way, the Waste Authority may, in its absolute discretion, exclude the applicant's application or any part of the application from consideration.

The Waste Authority may, in its absolute discretion, require or allow an applicant to amend, alter or otherwise change its funding application at any time during the application process.

Method of lodgement

Applicants must submit their completed application form (including any attachments) in the manner and by the closing time specified in the grant documentation.

Late applications

Applicants are urged to submit their grant application well in advance of the published submission deadline. It is the applicant's responsibility to adhere to all application instructions, including submission dates and times included in the grant application guidelines.

To be fair to all applicants, late applications will only be considered if you make an application in writing prior to the grant closing date for extenuating circumstances or as soon as possible after the closing date (within 24 hours) if you have experienced technical problems with the submission.

Any request must be made in writing to wsg@dwer.wa.gov.au and include the following details (at minimum):

- applicant name

- application number (if applicable)
- grant program
- closing time
- late application request time
- reason for late application request
- a PDF copy of your SmartyGrants application completed to date.

If you are submitting your application late, you will need to demonstrate exceptional circumstances.

Examples of exceptional circumstances that may be considered are:

- natural disaster (e.g. floods, fire)
- a validated disruption of service in a specific area (e.g. widespread power and/or internet service outage)
- a validated technical issue on the side of the department which prevented applicants from applying by the published deadline (e.g. a website outage or malfunction)
- sudden acute severe illness or death.

Severe weather closures may be considered if they occur on the day of the submission deadline.

Examples of reasons that are **not** acceptable are:

- heavy administrative responsibilities/busy work schedule/insufficient time to complete the application
- lack of awareness or knowledge of the grant program
- limited internal resources
- ongoing or non-severe health problems (e.g. common cold)
- personal events (e.g. planned leave).

Requests may not be accepted in cases where multiple extensions have already been granted.

An extension can only be considered if:

- there is no advantage to the late applicant
- the circumstances of the late receipt are exceptional (as above)
- the integrity of the process is maintained
- the merit assessment has not yet commenced
- to do otherwise would compromise the effectiveness of the grant program and be contrary to efficient government.

Each late application for exceptional circumstances will be assessed on its merits in consideration of the above criteria and probity principles. All factors will be weighed to ensure that probity principles are followed. Where there is uncertainty, the decision will be made in favour of fairness to all applicants and the integrity of the grant process. The Waste Authority's decision is final and no correspondence will be entered into.

Costs

The Waste Authority is not liable for any costs, expenses, losses, claims or damages that may be incurred by applicants in connection with the application process, execution of the funding agreement or participation in the program, including in preparing or submitting an application form, providing further information to the Waste Authority, or participating in discussion or negotiations (if any) with the Waste Authority.

Change in circumstance

The applicant must inform the Waste Authority promptly in writing of any material change to any of the information contained in its application form (including attachments), and any material change in circumstances that may affect the truth, completeness or accuracy of any of the information provided in, or in connection with, such documentation.

Questions

Any questions or requests for further information or clarification of the grant documentation, this document or any other document issued in connection with the application process must be submitted to the Waste Authority in writing, by email to the address specified in the grant Documentation.

Any communication by an applicant to the Waste Authority will be effective upon receipt by the Waste Authority (provided such communication is in the required format).

The Waste Authority may restrict the period during which it will accept questions or requests for further information or for clarification and reserves the right not to respond to any question or request irrespective of when such question or request is received.

Questions submitted and answers provided may be made available to all potential applicants by posting on the Waste Authority website without identifying the person or organisation having submitted the question.

An applicant may, by notifying the Waste Authority in writing, withdraw a question submitted in accordance with this section of the terms of participation in circumstances where the applicant does not wish the Waste Authority to provide its response to the question to all potential applicants.

Clarifications

The Waste Authority may at any time during the application process request additional information concerning any part of an application and request clarifications of an application.

The Waste Authority reserves the right, in its absolute discretion, to enter into any discussion or written communications with any applicant to seek clarifications and obtain additional information to enable

evaluation of an application or negotiate with any applicant without undertaking similar discussions or written communications with any other applicant.

Applicants must provide any additional information within such reasonable time period as may be specified by the Waste Authority.

The Waste Authority may contact other clients of applicants or any other relevant person to obtain any additional information.

Financial and regulatory compliance checks

Successful applicants may be required to undertake an independent third-party financial viability check and must provide financial information requested by the Waste Authority for this purpose. The Waste Authority may undertake checks with other regulators about the applicant's environmental, safety or other regulatory performance.

Goods and services tax

Project costs disclosed in the application form should be stated as exclusive of any input tax credits to which the applicant is entitled in respect of those costs.

Grants paid may be subject to goods and services tax (GST); however, this will depend on whether the applicant is registered (or required to be registered) for GST.

For successful applicants who are registered for GST, the amount payable by the State Government will be increased on account of GST, provided that the successful applicant provides the Waste Authority with a valid tax invoice.

Successful applicants who are not registered for GST must provide the department with a tax invoice stating their ABN and confirming no GST is payable on the amount of the grant.

Successful applicants who are not registered for GST should also consider whether the acceptance of the grant will cause them to exceed the registration turnover threshold for GST (which is currently \$150,000 for not-for-profit entities), in which case they may need to register for GST.

Governing law

The grant documentation and this document shall be governed by the laws of the State Government. The applicant irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Western Australia.